

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

KENNETH EUGENE MIDDLETON, JR.,

Case No. 6:19-cv-00027-CL
ORDER

Petitioner,
vs.

GARRETT LANEY,

Respondent.

AIKEN, District Judge:

Magistrate Judge Mark Clarke has filed his Findings and Recommendation (“F&R”) (Doc. 37) recommending that the petition for writ of habeas corpus (Doc. 2) be denied. Magistrate Judge Clarke has also recommended that this case be dismissed and that a Certificate of Appealability be denied. This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge’s F&R, the district court must make a *de novo* determination of that portion of the magistrate judge’s report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*

Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

Petitioner has filed timely objections to the F&R (Doc. 39) and respondent has filed a timely response. Doc. 40. Having reviewed the objection, response, and the entire file of this case, the Court finds no error in Magistrate Judge Clarke's order.

Thus, the Court adopts Magistrate Judge Clarke's F&R (Doc. 37) in its entirety. The petition for writ of habeas corpus (Doc. 2) is dismissed. Further, the Court declines to issue a Certificate of Appealability on the grounds that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Accordingly, this action is dismissed.

IT IS SO ORDERED.

Dated this 24th day of March, 2021.

/s/Ann Aiken
Ann Aiken
United States District Judge